

1 Larry A. Hammond, 004049  
2 Anne M. Chapman, 025965  
3 OSBORN MALEDON, P.A.  
4 2929 N. Central Avenue, 21st Floor  
5 Phoenix, Arizona 85012-2793  
6 (602) 640-9000  
7 lhammond@omlaw.com  
8 achapman@omlaw.com

9 John M. Sears, 005617  
10 107 North Cortez Street  
11 Suite 104  
12 Prescott, Arizona 86301  
13 (928) 778-5208  
14 John.Sears@azbar.org

15 Attorneys for Defendant

SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA

2009 JUN 10 PM 2:30

JEANNE HICKS, CLERK

BY: V. S. quin

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
12 IN AND FOR THE COUNTY OF YAVAPAI

13 STATE OF ARIZONA,

14 Plaintiff,

15 vs.

16 STEVEN CARROLL DEMOCKER,

17 Defendant.

) No. CR 2008-1339

) Div. 6

) **DEFENDANT'S RESPONSE TO**  
) **STATE'S MOTION FOR AN *IN***  
) ***CAMERA* INSPECTION OF**  
) **DIGITAL IMAGES ON A**  
) **MEMORY CARD TAKEN OUT**  
) **OF A LUMIX CAMERA FOUND**  
) **AT DEFENDANT'S RESIDENCE**

(Oral Argument Requested)

21 Defendant Steven C. DeMocker, by and through counsel, hereby responds to the  
22 State's Motion for an *in camera* inspection of digital images on a memory card taken  
23 out of a Lumix camera found at the DeMocker residence.

24 **BACKGROUND**

25 On June 3, 2009 the State filed a Motion for an *in camera* inspection of digital  
26 images on a memory card taken out of a Lumix Camera found at Defendant's  
27 Residence. On June 4, the Court set oral argument on the Motion for June 23, 2009.  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ARGUMENT**

The State's Motion asserts that the images on the Lumix memory card are not relevant to the case at bar and that it will not disclose the images without a court order to do so. Neither Mr. DeMocker nor his counsel have reviewed the images or know what is on the memory card. Mr. Ainley has previously advised counsel that the images involve Mr. DeMocker's minor child. If that is the case, Mr. DeMocker agrees that the images are not relevant. Mr. DeMocker has no objection to the State not producing those photographs if the State does not intend to introduce or otherwise rely on the images for any reason. Mr. DeMocker would also request that the State be ordered to destroy the images.

If there are photographs on the memory card that do not fall into the above category, counsel request that they be permitted to review the items not falling within the above category to determine if they might be relevant.

**CONCLUSION**

For these reasons, and any evidenced adduced at the hearing on this matter, Mr. DeMocker requests that this Court receive *in camera under seal* clarification from the State regarding what images are on the memory card. If the only images on the memory card involve Mr. DeMocker's minor child and the State agrees that these items are not relevant and will not be used for any purpose in this case, Mr. DeMocker requests that the Court order that these images be destroyed by the State. If there are other images on the memory card, Mr. DeMocker requests that his counsel be permitted to review these items for a determination of relevance.

DATED this 10<sup>th</sup> day of June, 2009.

By: \_\_\_\_\_

  
John Sears  
107 North Cortez Street, Suite 104

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Prescott, Arizona 86301

OSBORN MALEDON, P.A.  
Larry A. Hammond  
Anne M. Chapman  
2929 N. Central Avenue, Suite 2100  
Phoenix, Arizona 85012-2793

Attorneys for Defendant

ORIGINAL of the foregoing filed  
this 10<sup>th</sup> day of June, 2009, with:

Jeanne Hicks,  
Clerk of the Court  
Yavapai County Superior Court  
120 S. Cortez  
Prescott, AZ 86303

COPIES of the foregoing hand delivered  
this 10<sup>th</sup> day of June, 2009, to:

The Hon. Thomas B. Lindberg  
Judge of the Superior Court  
Division Six  
120 S. Cortez  
Prescott, AZ 86303

Joseph C. Butner, Esq.  
Office of the Yavapai County Attorney  
3505 W. Highway 260  
Suite 106  
Camp Verde, AZ 86322

